

CITY COUNCIL AGENDA

SEPTEMBER 7, 2004

SYNOPSIS

LINDA J. LE ZOTTE
FORREST WILLIAMS
CINDY CHAVEZ
CHUCK REED
NORA CAMPOS

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

RON GONZALES MAYOR

KEN YEAGER
TERRY O. GREGORY
DAVID D. CORTESE
JUDY CHIRCO
PAT DANDO, VICE MAYOR

DISTRICT 6
DISTRICT 7
DISTRICT 8
DISTRICT 9
DISTRICT 10

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- ***Strategic Support Services*** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- ***Economic and Neighborhood Development*** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- ***Recreation and Cultural Services*** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- ***Transportation Services*** — A safe and efficient transportation system that contributes to the livability and economic health of the City.
- ***Environment and Utility Services*** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- ***Aviation Services*** — Provide for the air transportation needs of the community and the region at levels that are acceptable to the community.
- ***Public Safety Services*** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

Items listed in Section 10 require approval of both the City Council and the San José Redevelopment Agency Board.

You may speak to the City Council about any item that is on the agenda, and you may also speak on items that are not on the agenda during Open Forum. If you wish to speak to the City Council, please refer to the following guidelines:

1. **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item/s that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
2. When the Council reaches your item on the agenda, Mayor Ron Gonzales will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
3. Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
4. To assist you in tracking your speaking time, there are three lights located to the far right of the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

The San José City Council meets every Tuesday at 1:30 p.m. and every first and third Tuesday at 7 p.m., unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas and Staff Reports for City Council items may be viewed on the Internet at www.sanjoseca.gov/clerk/agenda.htm

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call 1 (408) 277-4424 or 1 (408) 998-5299 (TTY) at least two business days before the meeting.

On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**
9:35 a.m. - Closed Session, Room 600, City Hall
Absent – Council Members: Mayor Gonzales, Council Member Williams.

1:36 p.m. - Regular Session, Council Chambers, City Hall
Absent – Mayor Gonzales.

7:05 p.m. - Public Hearings, Council Chambers, City Hall
General Plan Hearings, Council Chambers, City Hall
Absent – Mayor Gonzales.
- **Invocation (District 8)**
Rodney Nelson, Pastor, East Valley Pentecostal Church delivered a prayer.
- **Pledge of Allegiance**
Mayor Gonzales led the Pledge of Allegiance.
- **Orders of the Day**
The Orders of the Day and the Amended Agenda were approved.

1 CEREMONIAL ITEMS

- 1.1 Appointment and swearing in of District 8 Youth Commissioner. (Mayor)
Deferred to 9/21/04 to be heard in the evening.
- 1.2 Presentation of a commendation to Stewart Slater for his high level of performance and firm commitment to the American Musical Theatre of San José, and for his dedicated leadership in serving the constituents of San José and the City's unique arts culture.
(Williams)
(Rules Committee referral 9/1/04)
Vice Mayor Dando and Council Member Williams presented a commendation to Stewart Slater for his commitment to the American Musical Theatre of San José.

2 CONSENT CALENDAR

Notice to the public: There will be no separate discussion of Consent Calendar items as they are considered to be routine by the City Council and will be adopted by one motion. If a member of the City Council, staff, or public requests discussion on a particular item, that item will be removed from the Consent Calendar and considered separately.

2.1 Approval of Minutes.

- (a) Regular meeting of August 3, 2004
Approved.

2.2 Final adoption of ordinances.

Recommendation: Final adoption of ordinances:

- (a) ORD. NO. 27235 – Repeals Section 11.24.430 of Chapter 11.24 of Title 11 of the San José Municipal Code to eliminate the designation of Southwest Expressway from south to north between Stokes Street and Bascom Avenue as a one-way street.

Ordinance No. 27235 adopted.

2.3 Approval of a lease agreement for the Airport administrative offices.

Recommendation: Approval of a fourth amendment to the office lease with RNM First Street Center, LP, for the Airport administrative offices located at 1732 N. First Street, to provide for overnight parking of up to thirty (30) additional City and City Contractor fleet vehicles, for additional rent paid by the City in an annual amount not to exceed \$56,000, commencing on July 1, 2004, and subject to an annual increase in the amount of 2% through the expiration of the office lease on December 31, 2009. CEQA: Resolution Nos. 67380 and 71451, PP 04-07-222. (Airport)

Approved.

2.4 Approval to amend job classifications and titles.

Recommendation: Adoption of a resolution to:

- (a) Create the following job classification:
 - (1) Building Inspection Manager (3910);
- (b) Change the job classification titles of:
 - (1) Child Care & Youth Services Coordinator (6104) to Community Programs Administrator (6104);
 - (2) Parking Control Officer (2451) to Parking & Traffic Control Officer (2451);
 - (3) Sr. Parking Control Officer (2453) to Sr. Parking & Traffic Control Officer (2453); and
 - (4) Parking Control Supervisor (2455) to Parking & Traffic Control Supervisor (2455);

(Continued on next page)

2 CONSENT CALENDAR

2.4 Approval to amend job classifications and titles. (Cont'd)

Recommendation: Adoption of a resolution to:

- (c) Delete various job classifications as shown below:
 - (1) Sr. Computer Operator (1335);
 - (2) Community Garden Coordinator (3417);
 - (3) Sr. Communications Services Operator (1178);
 - (4) Database Administrator (8125);
 - (5) Guest Services Administrator (6331); and
 - (6) Principal Development Officer (4228).

CEQA: Not a Project. (Employee Services)

Resolution No. 72298 adopted.

2.5 Approval of an agreement to fabricate and install artwork at the new Evergreen Branch Library.

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Larry Kirkland to fabricate and install an artwork at the new Evergreen Branch Library, in an amount not to exceed \$135,562. CEQA: Mitigated Negative Declaration, H03-056. Council District 8. (Office of Cultural Affairs)

Resolution No. 72299 adopted.

2.6 Approval of various actions related to the Pre-Disaster Mitigation Grant Program.

Recommendation: Adoption of the following amendments to the annual appropriation ordinance and funding sources resolution in the General Fund for Fiscal Year 2004-05 as follows:

- (a) Establish an appropriation in the City-wide expenses to the City Manager's Office for the Pre-Disaster Mitigation Grant Program in the amount of \$25,000; and
- (b) Increase the earned revenue estimate from the State of California by \$25,000.

CEQA: Not a Project. (Emergency Services/City Manager's Office)

Ordinance No. 27246 adopted.

Resolution No. 72300 adopted.

2.7 Approval of open purchase orders for the purchase of supplies, materials, equipment, and services.

Recommendation: Approval of award of open purchase orders for supplies, materials, equipment and services for FY 2004-2005 #3 and authorization for the Director of General Services to execute the purchase orders.

CEQA: Not a Project. (General Services)

Dropped, see 9/14/04 Council agenda, Item 2.4.

2 CONSENT CALENDAR

2.8 Approval of actions related to the annexation of Cambrian No. 33.

Recommendation: Adoption of a resolution initiating proceedings and setting September 21, 2004 at 1:30 p.m. as the date for Council consideration of the reorganization of territory designated as Cambrian No. 33, which involves the annexation to the City of San José of 0.44 acre of land, located on the north side of Curtner Avenue, opposite the terminus of Joseph Avenue and adjacent to the City of San José annexations Cambrian Nos. 30A and 31, and the detachment of the same from West Valley Sanitation, County Lighting County Service, Central Fire Protection, and Area No 01 (Library Services) County Service. CEQA: Resolution No. 65459, C03-092. Council District 9. (Planning, Building and Code Enforcement)

Resolution No. 72301 adopted.

2.9 Approval of various actions related to the Alcohol Beverage Control Grant.

Recommendation: Adoption of the following amendments to the annual appropriation ordinance and funding sources resolution in the General Fund for Fiscal Year 2004-05 as follows:

- (a) Increase the existing appropriation in City-wide expenses to the Police Department for the Fiscal Year 2004-05 Alcohol Beverage Control Grant in the amount of \$75,000; and
 - (b) Increase the earned revenue estimate from the State of California by \$75,000.
- CEQA: Not a Project. (Police/City Manager's Office)

Ordinance No. 27242 adopted.

Resolution No. 72302 adopted.

2.10 Approval of an agreement to install water facilities for the new Rose Garden Branch Library Project.

Recommendation: Approval of an agreement with the San José Water Company for installation of water facilities to serve the new Rose Garden Branch Library Project, for the period September 7, 2004 to September 30, 2005, in the amount of \$118,329. CEQA: Negative Declaration, PP H02-065. Council District 6. (Public Works)

Approved.

2.11 Acceptance of the San José Arena Authority Ticket Distribution Program Report.

Recommendation: Acceptance of the Second Quarter 2004 San José Arena Authority Ticket Distribution Program Report. CEQA: Not a Project. (San José Arena Authority)

The Report was accepted.

2 CONSENT CALENDAR

2.12 Acceptance of the City Auditor's reports.

Recommendation: Acceptance of the Office of the City Auditor's:

- (a) Report of Activities and Findings for the Period June 16 through August 15, 2004.
- (b) Report on Sales and Business Tax Audit Results for the Quarter Ended June 30, 2004.
(City Auditor)
(Rules Committee referral 9/1/04)

The reports were accepted.

2.13 Approval of the City Auditor's travel calendar through December 31, 2004.

Recommendation: Approval of the City Auditor Gerald Silva's travel calendar through December 31, 2004, at a total cost to the City of \$422. (City Auditor)
(Rules Committee referral 9/1/04)

Approved.

2.14 Adoption of a resolution accepting invitations for the opening performance of the Opera San José.

Recommendation: Adoption of a resolution accepting invitations for the opening performance of the Opera San José from Opera San José and approving the distribution of invitations to officials and staff of the City and the Redevelopment Agency in their official capacity as representatives of the City of San José. (City Attorney)
(Rules Committee referral 9/1/04)

Resolution No. 72303 adopted.

2.15 Approval of fiscal actions for Redevelopment Agency Capital Projects.

Recommendation:

- (a) Adoption of appropriation ordinance and funding sources resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund) for the Meadowfair Park Phase II Project (PSM 375), the King and Story Road Improvements Project (PSM 221#4), the Transit Mall Lighting Project (PSM 379), the Traffic Signal at King/Wilshire (PSM 380), and the Richmond-Menker Housing Rehabilitation Improvements Phase I Project (PSM 377), with a net impact to the fund of \$443,000.

Ordinance No. 27243 adopted.

Resolution No. 72304 adopted.

- (b) Adoption of a resolution making certain determinations regarding the related expenditures of Redevelopment Agency funds on certain public improvements in connection with the Traffic Signal at King/Wilshire Project as more specifically described in the memorandum from the Redevelopment Agency dated June 17, 2004.

CEQA: Not a Project. Council Districts 5, 6, and 8. SNI: Burbank/Del Monte, West Evergreen, Gateway East. (City Manager's Office)
(Rules Committee referral 9/1/04)

Resolution No. 72305 adopted.

2 CONSENT CALENDAR

2.16 Approval to submit a grant application for an additional \$50,000 for the FY 2004 Metropolitan Medical Response System Grant funds.

Recommendation: Adoption of a resolution authorizing the City Manager to augment the grant application amount authorized under Resolution 72278, increasing the total grant amount for the FY 2004-2005 Metropolitan Medical Response System (“MMRS”) Program Continuation Grant with the United States Department of Homeland Security by an additional \$50,000, bringing the total to \$450,000. (Emergency Services)
(Rules Committee referral 9/1/04)

Resolution No. 72306 adopted.

3 STRATEGIC SUPPORT SERVICES

3.1 Report of the Study Session

Mayor Gonzales, Chair

- (a) May 2004 Proposed Operating and Capital Budget Study Sessions
Deferred to 9/14/04.

3.2 Report of the Rules Committee

Vice Mayor Dando, Chair

Meeting of August 25, 2004

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
- (1) Review September 7, 2004 Draft Agenda
The Committee recommended approval of the September 7, 2004 City Council agenda, with the following addition:
- (a) **During the evening session, appoint and swear-in the District 8 Youth Commissioner (Mayor)**
- (2) Add New Items to August 31, 2004 Amended Agenda
The Committee recommended the following addition to the August 24, 2004 City Council agenda:
- Mayor and Council Member Requests
 - a) **Present a commendation to Father Kevin Joyce for his years of spiritual and community contributions as Pastor of St. Maria Goretti Church (Gregory)**
 - City Manager Requests – **There were none.**
 - City Attorney Requests – **There were none.**
 - City Clerk Requests – **There were none.**
- (3) List of Reports Outstanding
The Committee noted and filed the City Manager’s report.

3 STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – Meeting of August 25, 2004 (Cont'd.)

- (c) Legislative Update
 - (1) State
The Committee questioned both Director of Intergovernmental Relations Betsy Shotwell and Director of Planning, Building & Code Enforcement Stephen Haase about AB2702 (Steinberg) relating to housing: second units. The Committee directed Ms. Shotwell and Mr. Haase to return next week with clarification and history of the City's position on secondary (granny) units.
 - (2) Federal – **There was no report.**
- (d) Meeting Schedules – **There were none.**
- (e) The Public Record
The Committee noted and filed the Public Record.
- (f) Appointment to Boards, Commissions and Committees
There were none.
- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Request to place an audit of the McKean Youth Sports Facility on the City Auditor's Workplan
The committee accepted the report and directed the Administration to send a formal response to Nancy Pyle.
 - (2) Expansion of Small Business Development Commission Functions, Powers and Duties Preliminary Workload Assessment
The Committee referred this issue to Council with direction Administration to return in one week with information on how the assignments will impact department and standing committee projects.
- (h) Oral communications – **None were presented.**
- (i) Adjournment
The meeting adjourned at 2:45 P.M.

The Rules Report and Actions of August 25, 2004 were accepted. City Attorney directed to examine any anticipated impacts of the newly adopted pet limits on secondary housing units.

3 STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee –Meeting of September 1, 2004

- (c) Legislative Update
 - (1) State
 - (a) AB 1878 (Chan) relating to motor scooters, operation and noise; SB 1694, SB 1695, SB 1694, SB 1697 (Torlakson), relating to driving under the influence
The Committee recommended support.

The Rules Report and Actions of September 1, 2004 were accepted.

3.3 Report of the Making Government Work Better Committee Council Member Campos, Chair No Report.

3.4 Approval to purchase insurance policies.

Recommendation: Approval of purchase of citywide insurance policies for the period October 1, 2004 to October 1, 2005, in an amount not to exceed \$2,950,000. Funding for these policies is included in the 2004-2005 Operating Budget. CEQA: Not a Project. (Finance))

Approved.

4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT

4.1 Report of the Building Strong Neighborhoods Committee Council Member Chavez, Chair No Report.

4.2 Report of the Driving a Strong Economy Committee – August 23, 2004 Council Member Williams, Chair

- (a) Economic Indicators and Trends
The Committee accepted the staff’s report, “Economic Indicators and Trends”.
- (b) Status of Industrial Lands
The Committee accepted the staff’s report, “Status of Industrial Lands”.
- (c) Report on attracting amateur and professional sports to San José
The Committee accepted staff’s report and recommended staff to cross-reference this item at the September 7, 2004 Council meeting.

SEE ITEM 4.5 FOR COUNCIL ACTION TAKEN

- (d) Oral petitions – **None.**

4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT

4.2 Report of the Driving a Strong Economy Committee – August 23, 2004 (Cont'd.)

(e) Adjournment

Meeting was adjourned at 3:37 P.M.

The Driving a Strong Economy Committee Report and Actions of August 23, 2004 were accepted.

4.3 Approval to award a contract for the Towers Lane Improvement Project.

Recommendation: Reports on bids and award of contract for the Towers Lane Improvement Project (north of Aborn Road) to the low bidder, DeSilva Gates Construction, LP, in the amount of \$626,191, and approval of a 15 percent contingency in the amount of \$94,000. CEQA: Exempt, PP 02-03-046. Council District 7. SNI: West Evergreen. (Public Works/Transportation)

(Deferred from 8/31/04 – Item 4.3)

Deferred to 9/14/04.

4.4 Accept the Strong Neighborhood Business Plan, as recommended by the Building Strong Neighborhood Committee.

Recommendation: Accept the Strong Neighborhood Business Plan, as recommended by the Building Strong Neighborhood Committee. (City Manager's Office)

[Building Strong Neighborhoods Committee referral 8/16/04 – Item 4.1(b)]

The Business Plan was accepted.

Staff directed to provide Council with additional information about staffing allocations and assignments.

4.5 Council discussion on the Report on Attracting Amateur and Professional Sports to San José, as directed by the Driving a Strong Economy Committee.

Recommendation: Council discussion on the Report on Attracting Amateur and Professional Sports to San José, as directed by the Driving a Strong Economy Committee.

[Driving a Strong Economy Committee referral 8/23/04 – Item 4.2(c)]

The report was accepted and No Council action was taken.

5 RECREATION & CULTURAL SERVICES

5.1 Report of the All Children Achieve Committee Council Member Yeager, Chair

No Report.

6 TRANSPORTATION SERVICES

- 6.1 **Report of the Building Better Transportation Committee
Council Member Cortese, Chair
No Report.**

- 6.2 **Public Hearing on the vacation of a portion of Lenzen Avenue.**

Recommendation: Public Hearing and adoption of a resolution approving the vacation of a portion of Lenzen Avenue and reserving a public service easement (PSE), located 350 feet east of Stockton Avenue. CEQA: Exempt. Council District 6. (Public Works)

The Public Hearing was held.

Resolution No. 72307 adopted.

- 6.3 **Approval to award a contract for the Greater Gardner Street Reconstruction,
Delmas Avenue Project.**

Recommendation: Report on bids and award of contract for the Greater Street Reconstruction – Delmas Avenue Project to the low bidder, Wattis Construction Company, Inc., in the amount of \$416,664, and approval of a contingency in the amount of \$42,000. CEQA: Exempt, PP04-07-215. Council District 3. SNI: Greater Gardner. (Public Works)

Approved.

- 6.4 **Approval to submit an application for Federal Surface Transportation Program
funding.**

Recommendation: Adoption of a resolution authorizing the City Manager to file an application for Federal Surface Transportation Program (STP) funding for the FY 05-06 and FY 06-07 STP Street Resurfacing Project and committing the necessary City funding match of \$853,000 for the project and stating the assurance of the City of San José to complete the project, subject to appropriation of funds, in the total amount of \$7,437,000. CEQA: Exempt, PP04-08-233. (Transportation)

Resolution No. 72308 adopted.

7 ENVIRONMENTAL & UTILITY SERVICES

- 7.1 **Approval to amend the agreement with Norcal for Recycle Plus Integrated Waste
Management Services.**

Recommendation: Amend the agreement between the City and Norcal for Recycle Plus Integrated Waste Management Services by incorporating unanticipated additional labor costs, ensuring prevailing wage, and accepting additional services offered by Norcal. (City Manager's Office)

Deferred to 9/14/04.

8 AVIATION SERVICES

9 PUBLIC SAFETY SERVICES

10 JOINT COUNCIL/REDEVELOPMENT AGENCY

- Closed Session Report

No Report.

- Notice of City Engineer's Pending Decision on Final Maps

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

None.

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
9618	Southwest corner of Oakland Road and Rock Avenue	4	Orchard Property LLC	107 units	Single family

- Open Forum—

- 1) **John P. Moore expressed his concerns regarding the New City Hall budget.**
- 2) **William Garbett criticized the Council for actions relating to high-rise housing and Alum Rock Park.**

11 PUBLIC HEARINGS

(Heard by the City Council at 7:05 p.m.)

11.1 Public Hearing on planned development rezoning of the property located at 13785 Story Road.

Recommendation: Public Hearing on and consider approval of an ordinance on Planned Development Rezoning of the property located at the northwest corner of Story Road and Lyndale Avenue (13785 Story Road), from County to A(PD) Planned Development Zoning District, to allow for commercial uses on a 0.12 gross acre site. (Joseph W Sunzeri 1997 Fam LP, Owner). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement recommends approval and because a quorum was not reached on the motion (3-2-2), Planning Commission forwards no recommendation. SNI: East Valley/680 Communities.

PDC 04-022 - District 5

Action taken under 12.4(b).

Ordinance No. 27245 passed for publication.

11.2 Public Hearing on rezonings located at 905 N. Capitol Avenue.

Recommendation: Public Hearing on and consider approval of an ordinance authorizing the following rezonings located on the west side of North Capitol Avenue, opposite Penitencia Creek Road (905 N. Capital Avenue): 1) Planned Development Rezoning from County to A(PD) Planned Development Zoning District on approximately 5.1 acres, to allow up to 113 single-family attached residences (Lands of Yoneda); 2) Rezoning from Unincorporated County to R-M Multiple Residence District on approximately 4.2 acres (Lands of Yoneda); and 3) Rezoning from Unincorporated County to R-M Multiple Residence District on approximately 1.76 acres (Lands of Chelstowski). (Yoneda Masato and Fusa T. Trustee et al., Owner; Trumark Companies, Chris Davenport, Developer). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).

PDC 04-017 - District 4

Ordinance No. 27244 passed for publication.

11.3 Public Hearing on planned development rezoning of the property located at the south side of State Street, approximately 300 feet easterly of Pacific Avenue.

Recommendation: Public Hearing on and consider approval of an ordinance on Planned Development Rezoning of the property located at the south side of State Street, approximately 300 feet easterly of Pacific Avenue, from R-M Multiple Residence Zoning District to A(PD) Planned Development Zoning District, to allow up to 6 single-family detached residences on a 0.41 gross acre site. (Next Step Homes, LLC, Owner/Developer). CEQA: Mitigated Negative Declaration.

PDC 03-104 - District 4

Continued to 9/21/04.

11 PUBLIC HEARINGS

11.4 Public Hearing on the Appeal of the Planning Commission's decision to approve with conditions a Conditional Use Permit to extend the hours of late night use to 24 hours per day for a public eating establishment located at 394 South Second Street.

Recommendation: Public Hearing on the Appeal of the Planning Commission's decision to approve with conditions a Conditional Use Permit to extend the hours of late night use to 24 hours per day for a public eating establishment located at 394 South Second Street in the DC Downtown Primary Commercial Zoning District. (Renato and Diane Cusimano, Owners: Palermo Ristorante Italiano, Developer). CEQA: Resolution No. 68839. Director of Planning, Building and Code Enforcement recommends to uphold the appeal and adopt a resolution to deny and Planning Commission recommends approval to extend hours of late night use until 5:00 a.m. on Saturday and Sunday with a one-year compliance review (5-0-2).

CP 04-058 (RCP 04-060) - District 3

Dropped.

12 GENERAL PLAN PUBLIC HEARINGS

(Heard by the City Council at 7:05 p.m.)

12.1 Approval of General Plan Consent Calendar items.

Recommendation: PUBLIC HEARING ON GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram to allow expansion of the Urban Service Area and a minor modification of the Urban Growth Boundary for property located at the north side of Fleming Avenue (1230 and 1238 Fleming Avenue) between Impresario Way and Warner Drive on a 2-acre site. (Carl & Helen Gunnels Trust, Owners/Mark Thomas & Company, Applicant). The General Plan Land Use/Transportation Diagram designation of Non Urban Hillside is not proposed to change. CEQA: Mitigated Negative Declaration, GP03-05-04. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1; Platten Absent).

GP03-05-04, UGB03-01 - District 5

Staff/Planning Commission recommendation to change the Land Use/Transportation Diagram to allow expansion of the Urban Service Area and a minor modification of the Urban Growth Boundar for property located at the north side of Fleming Avenue was tentatively approved.

12 GENERAL PLAN PUBLIC HEARINGS

12.2 Public Hearing on General Plan amendment for property located on the northwest corner of Mabury Road and South King Road on a 3.96-acre site.

Recommendation: PUBLIC HEARING ON GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from Light Industrial to Medium High Density Residential (12-25 DU/AC) for property located on the northwest corner of Mabury Road and South King Road on a 3.96-acre site. (Borrelli Investment Company, Owner/Ray Hashimoto, Applicant). CEQA: Mitigated Negative Declaration, GP04-04-03. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval for Transit Corridor Residential (20 + DU/AC) (4-0-2-1; Platten & Campos Absent; Dhillon Abstained).

GP04-04-03 - District 4

Applicant's recommendation request to change the Land Use/Transportation Diagram designation from Light Industrial to Medium High Density Residential (12-25 DU/AC) for property located on the northwest corner of Mabury Road and South King Road on a 3.96 acre site was tentatively approved. Noes: Chavez, LeZotte.

12.3 Public Hearing on General Plan amendment for property located on both sides of Rosemar Court, north of Rosemar Avenue on an 8.5-acre site.

Recommendation: PUBLIC HEARING ON GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from Estate Residential (1.0 DU/AC) to Very Low Density Residential (2.0 DU/AC) for property located on both sides of Rosemar Court, north of Rosemar Avenue on an 8.5-acre site. (Rosemar Enterprises Corp., Owners/Gerry De Young, Applicant). CEQA: Mitigated Negative Declaration, GP03-05-08. Director of Planning, Building and Code Enforcement recommends approval and Planning Commission recommends denial (4-3-0; Campos, Levy & James Opposed).

GP03-05-08 - District 5

(Continued from 3/16/04 - Item 12.3 and 6/1/04 - Item 12.4)

Staff recommendation to approve the General Plan Amendment request to change the San José 2020 General Plan Land Use/Transportation Diagram designation from Estate Residential (1.0 DU/AC) to Very Low Density Residential (2.0 DU/AC) on an 8.5-acre site located on both sides of Rosemar Court, north of Rosemar Avenue was tentatively approved, per memorandum from Council Member Campos, dated September 7, 2004.

12 GENERAL PLAN PUBLIC HEARINGS

- 12.4 **Public Hearing on the following items located at the northwest corner of Story Road (13785 Story Road) and Lyndale Avenue on a 0.12-acre site. (Joseph Sunzeri, Owner/HMH Engineers, Applicant).**

Recommendation:

- (a) PUBLIC HEARING ON GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram from Medium Low Density Residential designation (8 DU/AC). CEQA: Mitigated Negative Declaration, GP04-05-02. SNI: East Valley/680 Communities. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-2; Platten & Campos Absent).
GP04-05-02 - District 5
- (b) PLANNED DEVELOPMENT PREZONING from County to A (PD) Planned Development Zoning District to allow for commercial uses. CEQA: Mitigated Negative Declaration, PDC04-022. SNI: East Valley/680 Communities. Director of Planning, Building and Code Enforcement recommend approval and because a majority was not reached on the motion (3-2-2), Planning Commission forwards no recommendation.
PDC04-022 - District 5

Staff recommendation request to change the Land Use/Transportation Diagram from Medium Low Density Residential designation and Planned Development Prezoning from County to A (PD) Planned Development Zoning District to allow for commercial uses with the following considerations: (1) Adopt the parking plan/design proposed by the applicant, and (2) Require only those improvements along Story Road that would create a safe walkway with the improvements to be made within a reasonable time frame, were tentatively approved per Council Member Campos' memorandum, dated September 7, 2004. Additional direction for Staff to continue working with the applicant regarding neighborhood traffic safety concerns.

- 12.5 **Public Hearing on General Plan amendment for property located on the west side of Peregrino Way (1726 Peregrino Way), approximately 400 feet northwest of Dry Creek Road on a 1.16-acre site.**

Recommendation: PUBLIC HEARING ON GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from Very Low Density Residential (2 DU/AC) to Low Density Residential (5 DU/AC) for property located on the west side of Peregrino Way (1726 Peregrino Way), approximately 400 feet northwest of Dry Creek Road on a 1.16-acre site. (Kennedy Rogers, Owner/Applicant). CEQA: Mitigated Negative Declaration, GP04-06-01. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).
GP04-06-01 - District 6

(Continued from 6/1/04 - Item 12.5 and 6/15/04 - Item 12.3)

Staff recommendation request to change the Land Use/Transportation Diagram designation from Very Low Density Residential (2 DU/AC) to Low Density Residential for property located on the west side of Peregrino Way was tentatively approved.

12 GENERAL PLAN PUBLIC HEARINGS

12.6 Continuance of this September 7 General Plan hearing and adoption of a resolution approving all General Plan amendment actions to September 21, 2004.

Recommendation: Continuance of this September 7 General Plan hearing and adoption of a resolution approving General Plan amendment actions on September 7 and September 21 to September 21, 2004. (Planning, Building and Code Enforcement)

The General Plan was continued to September 21, 2004.

- Open Forum

- 1) Eric Peterson expressed his concerns on City-planned developments in residential neighborhoods.
- 2) Donna Wallach spoke on issues pertaining to the Central Coast Gang Investigators Gang Conference (CCGI) conference in San José.
- 3) Jesse Villareal spoke on issues regarding police brutality and against the CCGI conference in San José.
- 4) Raj Jayadev spoke on issues against the CCGI conference.

- Adjournment

The Council of the City of San José adjourned at 8:57 P.M.